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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,431	04/10/2006	Jiro Kiyama	65325 (70904)	2093

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EXAMINER	
HARVEY, DAVID E	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/575,431	KIYAMA ET AL.	
	Examiner	Art Unit	
	DAVID E. HARVEY	2481	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 November 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *58-62* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *58-62* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/21/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. The following "prior art" is noted:

A) US Patent Document #2002/0188628 to Cooper et al:

Cooper et al. has been cited because it evidences the fact that it was well known in the art to produced an interactive program by associating interactive content at different points in time of time-based media **[e.g., SEE: paragraph 0001].**

B) US Patent Document #2003/0095794 to Chung et al:

Chung et al. has been cited as being illustrative of a content reproducing apparatus which produced an interactive program by associating interactive content at different points in time of time-based media as described in Cooper et al. discussed above **[e.g., SEE: Figures 11-15; and paragraphs 0094-0101].**

C) US Patent Document #2004/0175154 to Yoon et al:

Yoon et al has been cited because it evidences the fact that it was known to have associating interactive content (e.g., ENAV data) with time-based A/V media using a separate sync file **[e.g., SEE: paragraphs 0060 and 0037].**

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> **The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.**

3. Claim 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1) Line 1 of claim 61 seems to indicate that claim 61 is intended to be directed to a statutory recording medium having a "data structure" stored thereon. As such, in lines 3-5, the "managed as a file… during operation thereof" recitation is confusing and indefinite because it is unclear as to how this recitation defines and/or constrains the "data structure" that appears to be claimed. Appropriate clarification is needed.

2) In claim 61, lines 4-5, "as needed during the operation thereof" is indefinite because it is not clear as to what it means and/or refers. Appropriate clarification is needed.

3) Line 1 of claim 61 seems to indicate that claim 61 is directed to a statutory recording medium having a "data structure stored thereon. As such, the body of the claim:

a) Must positively set forth the "data structure" that id being claimed; and

b) To be given patentable weight, the recited data structure must be set forth via "functional descriptive subject matter" (i.e., limitations).

Given the above, the examiner continues to take the position that:

a) The body of claim 61 constitutes non-functional descriptive material and, as such, carries no patentable weight;

b) That the inclusion of the subject matter of claim 58, i.e., the structure of a reproducing apparatus, within claim 61 does not overcome this issue because the structure of the apparatus has not been claimed in a way that constrains the data structure being claimed by claim 61.

Appropriate clarification is needed.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> **A person shall be entitled to a patent unless –**
>
> > **(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**
> >
> > **(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.**

5. Claim 61 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by notoriously well known "non-transitory content recording medium". The following is noted:

A) The examiner notes that the first six words of claim 61 indicate that the claim is directed to "non-transitory content recording medium", however, the remainder of the claim appears to be nothing more than a recitation of intended use and therefor has been given no patentable weight **[SEE: paragraph 3 of this Office action]**; e.g., the recitations constitute non-functional descriptive material that fails to distinguish that which is claimed over the prior art.

B) The examiner takes Official Notice that "non-transitory content recording medium(s)" were notoriously well known in the art at the time of applicant's invention. Such medium(s) anticipate claim 61 for the reasons addressed in part A of this paragraph.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> **(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.**

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Document #2003/0095794 to Chung et al in view of US Patent Document #2004/0175154 to Yoon et al.

A) The showing of Chung et al:

1) Chung et al. discloses a content reproducing apparatus as was set forth above in part "B" of paragraph 1 of this Office action.

2) With respect to the limitations of claim 58, it is the examiner's position that, as shown in Figure 11, Chung et al discloses a content reproducing apparatus that included:

a) A non-transitory recording medium (@ 100) having various data files stored thereon (@ Figure 1);

b) A data acquiring section (e.g., @ 1);

c) A program execution section (e.g., @ 13); and

d) A synchronization control section (@ 25) **[e.g., Note: paragraphs 0003, 0005, 0006, 0096; and Figure 13].**

B) Differences:

Claim 58 appears to differ from the showing of Chung et al only in that claim 58 indicates the use of a separate "sync file" for synchronizing the interactive content (i.e., defined events) with the A/V media information.

C) Obviousness:

1) Yoon et al discloses a reproduction apparatus in the "same" environment as disclosed in Chung et al **[e.g., Note: Figure 2 of Yoon et al; and part C of paragraph 1 of this Office action].** Yoon et al evidences the fact that it was known/conventional to have associated the interactive content (e.g., ENAV data) with time-based A/V media using a separate sync file **[e.g., SEE: paragraphs 0060 and 0037].** It would have been obvious to one of ordinary skill in the art to have modified the system disclosed by Chung et al in accordance with the teaching of Yoon et al whereby the required trigger information (@ 25 in Figure 11of Chung et al) is provided using the separate sync file described in Yoon et al to obtain the advantages thereof; e.g., the ability to download an synchronize new/updated interactive information with the recorded time-based A/V content.

8. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Document #2003/0095794 to Chung et al in view of US Patent Document #2004/0175154 to Yoon et al. for the same reasons that were addressed above for claim 58. Additionally:

In the modified system of Chung et al the interactive content would have to have been loaded/"registered" in the reproduction apparatus before it could be reproduced thereby (even when new/updated interactive content is used).

9. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Document #2003/0095794 to Chung et al in view of US Patent Document #2004/0175154 to Yoon et al, for the same reasons that were addressed above for claim 58, in view of the 1984 publication "Structured Computer Organization" by Tanenbaum.

Tanenbaum has been cited as evidencing the fact that those of ordinary skill in the art have long recognized hardware and software implementations of a given processing operation to be obvious and equivalent [note lines 10-13 of page 11].

In light of this showing, the examiner maintains that it would have been obvious to one of ordinary skill in the art to have implemented the modified system of Cheung et al using a software driven processor (i.e., wherein the software must necessary be stored via some type of non-transitory processor readable medium).

10. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Document #2003/0095794 to Chung et al in view of US Patent Document #2004/0175154 to Yoon et al, and in further of the 1984 publication "Structured Computer Organization" by Tanenbaum for the same reasons that were set forth above for claim 60

11. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Document #2003/0095794 to Chung et al in view of US Patent Document #2004/0175154 to Yoon et al. for the same reasons that were addressed above for claim 58.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. HARVEY whose telephone number is (571) 272-7345. The examiner can normally be reached on M-F from 6:00AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter-Anthony Pappas, can be reached on (571) 272-7646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID E HARVEY/
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